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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board ("Board") held a General meeting on April 24, 2003, at the Renaissance Esmeralda Resort, Valencia 5-6 Room, 44-400 Indian Wells Lane, Indian Wells, California.

2. **ROLL CALL**

Glenn E. Stevens, President of the Board, called the General meeting to order at 10:44 a.m.

|          |                       |                      |
|----------|-----------------------|----------------------|
| Present: | Robert V. Branzuela   | Tom Novi             |
|          | Robert T. (Tom) Flesh | Executive Director   |
|          | Angelo Quaranta       | Howard Weinberg      |
|          | Glenn E. Stevens      | General Counsel      |
|          | David W. Wilson       | Robin Parker         |
|          |                       | Senior Staff Counsel |

Absent: David C. Lizárraga  
Alan J. Skobin

Mr. Stevens acknowledged the following members of the audience: Mac Gordon, Detroit Editor, Ward's Dealer Business Magazine, F&I Magazine; Bob Dutton, Franchise Affairs Strategy Manager, Toyota Motor Sales U.S.A, Inc.; Brian Maas, Government and Legal Affairs Counsel, California Motor Car Dealers Association ("CMCDA"); and Jay Gorman, Executive Vice President, CMCDA. Also present were Peter Welch, Director of Government and Legal Affairs, CMCDA, and Jeff Estabrooks, incoming CMCDA President.

3. **APPROVAL OF THE MINUTES FROM THE MARCH 11, 2003, GENERAL MEETING**

Mr. Quaranta moved to adopt the March 11, 2003, General Board meeting minutes. Mr. Wilson seconded the motion. The motion carried unanimously.

4. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO JAY GORMAN, EXECUTIVE VICE PRESIDENT, CALIFORNIA MOTOR CAR DEALERS ASSOCIATION**

Mr. Flesh moved to present a Resolution to Jay Gorman, Executive Vice President, California Motor Car Dealers Association, commemorating his contribution to the automobile industry. Mr. Quaranta seconded the motion. The motion carried unanimously.

5. **BOARD MEMBER EDUCATION CONCERNING THE INTRODUCTION OF THE CALIFORNIA MOTOR CAR DEALERS ASSOCIATION INCOMING PRESIDENT, JEFF ESTABROOKS – BOARD DEVELOPMENT COMMITTEE**

Jeff Estabrooks, incoming President of the California Motor Car Dealers Association was introduced to the members and presented with a letter and lapel pin.

6. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**CONSIDERATION OF PROPOSED DECISION**

**DAUGHERTY LINCOLN MERCURY v. FORD MOTOR COMPANY, LINCOLN MERCURY DIVISION**  
Protest No. PR-1798-02

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

Oral arguments were presented before the Public members of the Board. Michael M. Sieving, Esq., of the Law Offices of Michael M. Sieving represented Protestant. Cranston J. Williams of Baker & Hostetler LLP represented Respondent.

The Public members of the Board deliberated in closed Executive Session. Mr. Flesh moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Quaranta seconded the motion. The motion carried unanimously.

7. **OPEN SESSION**

The Public members returned to Open Session. Mr. Stevens announced the decision on Agenda item 6.

Mr. Stevens recognized Nick Shamis, Jeff Estabrooks uncle, and Asad Farah, both of the Felix Automotive Group. They were each presented with a New Motor Vehicle Board lapel pin.

8. **CONSIDERATION OF PORSCHE CARS NORTH AMERICA, INC.'S REQUEST TO EXTEND THE WARRANTY AUDIT PERIOD BEYOND TWELVE (12) MONTHS FOR MCKENNA MOTOR CO., INC., DBA MCKENNA PORSCHE UNDER VEHICLE CODE SECTION 3065**

Mr. Stevens informed the members and audience that this matter had been pulled from consideration at Porsche's request.

9. **ANNUAL UPDATE CONCERNING THE BOARD'S COMPLIANCE WITH THE 1996 PERFORMANCE AUDIT CONDUCTED BY BUSINESS, TRANSPORTATION & HOUSING AGENCY, AND THE RESULTANT CORRECTIVE ACTION PLAN - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker updating the corrective action taken for each audit finding, and a matrix providing the chronology for each. Ms. Parker provided an overview of the Board's compliance with the Audit Findings and Corrective Action Plan. She indicated that the Board was in full compliance and no outstanding issues remained unaddressed.

10. **CONSIDERATION OF REVISED NEW MOTOR VEHICLE BOARD MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi concerning revisions to the Board's mission and vision statements. At the March 11, 2003, General meeting, the members requested that the mission and vision statements be revised to ensure that they accurately reflect the Board's current responsibilities. Mr. Wilson moved to adopt the revised mission and vision statements. Mr. Flesh seconded the motion. The motion carried unanimously.

The revised statements are as follows:

**MISSION STATEMENT**

It is the mission of the New Motor Vehicle Board to resolve disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner.

**VISION STATEMENT**

Safeguard for the Board's constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes which ultimately improves industry relations and reduces the need for costly litigation. Develop methods that further improve the delivery of Board services in a timely and cost-effective manner. Educate Board members concerning industry matters which further improve the

Board's ability to equitably resolve industry disputes.

11. **SEMI-ANNUAL UPDATE ON STAFF TRAINING PROGRAMS IMPLEMENTED FOR SUPPORT PERSONNEL, STAFF COUNSEL, AND ADMINISTRATIVE LAW JUDGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning staff training. Mr. Novi reported on the training the staff attended since the last report to the members in September 2002.

12. **SEMI-ANNUAL UPDATE CONCERNING THE NUMBER OF MONTHLY HITS TO THE BOARD'S WEB SITE AND WHERE INFORMATION IS BEING SOUGHT - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel updating the number of monthly hits to the Board's web site and where the information is being sought. Mr. Novi indicated that the information on the web site is updated on a flow basis. Mr. Branzuela requested information concerning the types of e-mail requests for information the Board receives. This report will be provided at the June 17, 2003, General meeting.

13. **CONSIDERATION OF ADDING A LINK TO THE N.A.D.A. APPRAISAL GUIDES TO THE BOARD'S WEB SITE - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning adding a link to the N.A.D.A. Appraisal Guides to the Board's web site. Mark Perleberg, Business Development Manager, N.A.D.A. Appraisal Guides, was present to address member questions. Mr. Wilson moved to add the requested link subject to a legal disclaimer being drafted by Howard Weinberg, General Counsel. Mr. Branzuela seconded the motion. The motion carried unanimously. The members requested that a reciprocal link to the Board's web site be added to the N.A.D.A. Appraisal Guides web site.

14. **CONSIDERATION OF USE OF STAFF COUNSEL FOR MANDATORY SETTLEMENT CONFERENCES AND REDUCTION IN PERSONAL SERVICES BUDGET - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Cara O'Neill-Stewart concerning use of Staff Counsel for Mandatory Settlement Conferences. Mr. Novi reported that the Board needed to reduce its Personal Services budget allocation by 10%, which equates to a net reduction of \$99,000. Mr. Flesh moved to authorize Cara O'Neill-Stewart to conduct Mandatory Settlement Conferences whenever possible, thereby allowing the Board to reduce its Personal Services budget allocation by \$99,000. Mr. Quaranta seconded the motion. The motion carried unanimously.

15. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
  - (1) Senate Bill 248 (Senator Murray).
  - (2) Senate Bill 298 (Senator Dunn).
- b. Pending Legislation of general interest.

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the legislation that impacts the Board and bills of general interest. The summary analyzes the current law, the legislation, and the impact on the Board. Ms. Parker reported that Assembly Bill 1718 was amended to add the proposed changes that resulted from the Board's cooperative review of its statutes and regulations.

16. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a report on Administrative Matters which identified all pending projects, the Board manager and committee assigned, estimated completion dates, and status.

The members were also provided with a copy of the Executive Director's Report. Ms. Parker reported that the petition in *Ray Fladeboe Lincoln Mercury, Inc. v. American Isuzu Motors, Inc.*, was dismissed at Petitioner's request. Mr. Weinberg reported that oral arguments had not been requested in the appeal in *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Mazda*. Mr. Stevens indicated that he wanted the Attorney General to present oral arguments on the Board's behalf.

Mr. Novi reported that the next General meeting would be in Sacramento on June 17, 2003. A Special meeting to tour the BMW Design Facility will be held on August 27 or 28, 2003. The staff would poll the members concerning their availability.

Harry Gray, dealer principal of Auto Gallery (Porsche, Ferrari, Maserati, and Audi) in Woodland Hills, addressed the Board concerning a future topic for discussion. Mr. Gray expressed concern over the "extensive" amounts of compliance with corporate identity. Mr. Gray requested that the code be examined. The Board pointed out that it does not take positions on legislation and suggested that Mr. Gray contact the CMCD.

17. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 12:28 p.m.

Submitted by

\_\_\_\_\_  
TOM NOVI  
Executive Director

APPROVED: \_\_\_\_\_

Glenn E. Stevens  
President  
New Motor Vehicle Board